25. (New) A method of treating a neurodegenerative disease in a mammal comprising the step of introducing a therapeutically effective amount of a compound which suppresses ataxin-1 aggregation into the neurological system of the mammal.

REMARKS

Claims 1 and 3-24 are pending. As a result of this amendment, claims 12, 16 and 19 are cancelled without prejudice. Claims 1 and 3 are amended and new claim 25 is added herein.

Elections under Restriction Requirement:

In response to the Restriction Requirement, Applicants hereby ELECT, with traverse, Group I, claims 1, 3, 12, 16 and 19, for prosecution on the merits, of which claims 12, 16 and 19 are cancelled herein.

Applicants traverse the Restriction and, for the following reasons, request that the Examiner consider the inclusion of claims 6 (Group IV) and 21 and 24 (Group IX) in the group of claims to be examined.

The subject matter of the claims in Groups I, IV and IX as defined by the Examiner, is not distinct. The restriction between groups I, IV and IX is made on the basis of Group I being drawn to a method of treating a neurodegenerative disease in a mammal by administering a chaperone or chaperone-like compound, while Groups IV and IX are drawn to a method of treating a neurodegenerative disease in a mammal by administering a compound that increases the concentration of a chaperone in the neurological system, and a method of treating a nuerodegenerative disorder by administering a compound which suppresses ataxin-1 aggregation, respectively.

The MPEP §802.01 defines "distinct" as meaning that "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed . . . ." The two "inventions" in Groups I and IV as defined by the Examiner, however, are not capable of separate "manufacture," that is, the methods are not capable of separate practice. For example, one of ordinary skill, practicing the "invention" of Group I (treating a neurodegenerative disease in a mammal by administering a chaperone or chaperone-like compound, e.g., as in claims 1, 3, 12, 16 and 19), would also be practicing the

invention of Group IV (treating a neurodegenerative disease in a mammal by administering a compound that increases the concentration of a chaperone in the neurological system, claim 6). That is, administering a chaperone will increase the concentration of chaperone. Because the claims of Group I cannot be practiced without also practicing the "invention" of Group IV, the claims of Groups I and IV are not distinct as defined by the MPEP § 802.01, and the restriction is improper.

In addition, MPEP § 806.05(c) requires that "[i]n order to establish that combination and subcombination inventions are distinct, two-way distinctness must be demonstrated" and that "[t]o support a requirement for restriction, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classifications, status, or field of search." In the present case, however, the two-way distinctness requirement has not been met. Although one can practice the claims of Group IV without practicing the claims of Group I, for example, one cannot practice the claims of Group I without practicing the "invention" of Group IV. The claims of Groups I, and IV therefore do not satisfy the two-way distinctiveness requirement of MPEP § 806.05(c).

With regard to Group IX, Applicants note that both Groups I and IX have been assigned the same classification, i.e., class 514, subclass 2. Further, Applicants submit that an example of a compound which suppresses ataxin-1 aggregation, as required by Group IX is a chaperone as required by Group I. Thus, there is significant overlap between the scope of Groups I and IX. The MPEP §803 states, in relevant part, "There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent . . . or distinct as claimed; **and** (B) There must be a serious burden on the examiner if restriction is required . . . ." (emphasis added). Because the claims of group IX overlap those of Group I, and because both Groups have the same classification, applicants submit that it would not present a serious burden on the Examiner to search and examine these claims as a single Group.

In view of the above, Applicants respectfully request reconsideration of the restriction, such that method of treatment claims in Groups IV (claim 6) and IX (claims 21 and 24) can be examined in the current application. Applicants submit that new claim 25, which is drawn to treatment of a neurodegenerative disease by introducing a compound which suppresses ataxin-1 aggregation falls within the subject matter of Group IX, which, as discussed above, comprises a

subset of the embodiments encompassed by Group I. New claim 25 should therefore be examined along with the claims of Group I.

Amendments to the Claims:

Claims 1 and 3 are amended herein to remove the phrase "or chaperone-like compound." Applicants submit that the term "chaperone" as defined in the specification and as used in the claims encompasses a "chaperone-like compound." As such, the terms are equivalent and it is not necessary for the claims to recite both terms. Further, Applicants submit that chaperones were well known in the art at the time of filing.

Respectfully submitted,

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Marked-up version of amended claims:

1. (Amended) A method of treating neurodegenerative disease in a mammal comprising the [steps] step of introducing a therapeutic effective amount of a chaperone [or chaperone-like-compound] into the neurological system of the mammal.

3. (Amended) The method of claim 1, wherein the introducing step includes directly injecting the chaperone [or chaperone-like-compound] into the mammal.

25. (New) A method of treating a neurodegenerative disease in a mammal comprising the step of introducing a therapeutically effective amount of a compound which suppresses ataxin-1 aggregation into the neurological system of the mammal.